

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

ONE ASHBURTON PLACE, ROOM 411

BOSTON, MASSACHUSETTS 02108

(617) 727-8352

(800) 462-OCPF

MICHAEL J. SULLIVAN
DIRECTOR

January 24, 1997
AO-97-03

Mr. Frederick Van Magness, Jr.
243 Franklin Street
Reading, MA 01867

Re: Town Meeting Member establishing or serving as officer of
political action committee

Dear Mr. Van Magness:

This letter is in response to your recent request for an
advisory opinion.

Your questions relate to M.G.L. c. 55, s. 5A, which
provides that "[n]o candidate or individual holding elective
public office shall establish, finance, maintain, control or
serve as a principal officer of a political action committee
...".¹

Facts

You state that you serve as the Vice Chairman of the
Reading Republican Town Committee. You have joined with
officers of other Republican Town Committees to form the United
Republican Task Force. The Task Force may become a political
action committee.

The goal of the Task Force would be to facilitate
communication between member town committees and to assist each
committee in hosting political events for Republican candidates
and causes.²

You are also an elected member of the Representative Town
Meeting in Reading.

¹ The statute creates an exception for a majority of the
members of each political party in the house of representatives
and in the senate, each of which can authorize one PAC
controlled by a candidate or elective public office holder.

² Town committees may jointly sponsor joint fundraising
events. See 970 CMR 2.12. As the Task Force will remain in
existence indefinitely and will do more than sponsor a joint
fundraising event, the Task Force would become a political
action committee and 970 CMR 2.12 would not be applicable.

Questions

You have asked two questions regarding the application of s. 5A: (1) may you, as an elected Representative Town Meeting member, assist the United Republican Task Force in chartering with the Republican State Committee (a process which you have stated will "establish" the PAC?; and (2) may you, as an elected Representative Town Meeting member, continue to serve as the Vice Chairman of this newly-designated committee?

Answers

"Yes" to both of your questions.

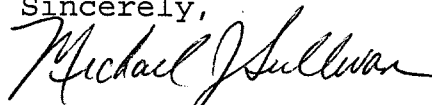
Discussion

This office has concluded that section 5A does not restrict the activities of elected representative town meeting members who wish to participate in political action committees. See AO-95-03 (a copy is enclosed, for information).³ Town meeting members are not "elective public officers" within the context of M.G.L. c. 55, s. 5A. In addition, given the disclosure exemption in section 18(a), and the lack of reference to town meeting candidates in s. 5A or elsewhere in the campaign finance law, there is no indication that the legislature intended to include town meeting members within s. 5A's prohibition. Finally, I note that each town in the commonwealth which has a representative town meeting has approximately 240 town meeting members. To prohibit their involvement as officers in political action committees, solely because of their role as town meeting members, would impose a substantial constraint on their political activity without a sufficient statutory basis.

This opinion has been rendered solely on the basis of the representations in your letter and telephone conversations with OCPF staff, and solely in the context of M.G.L. c. 55.

Please do not hesitate to contact this office should you have additional questions.

Sincerely,



Michael J. Sullivan
Director

MJS/cp
Enclosure

³ The discussion of M.G.L. c. 55, s. 15 on page 3 of the enclosed opinion is no longer applicable. Chapter 349 of the Acts of 1996 amended section 15, which now allows town meeting members and other uncompensated public servants to give political contributions to other "persons in the service" of the commonwealth or its subdivisions.